

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOHN DALE SCOTT,

Plaintiff,

v.

Case Number 11-11099

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

COMMISSIONER OF SOCIAL SECURITY,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT,
DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT,
REVERSING THE FINDINGS OF THE COMMISSIONER, AND
REMANDING FOR FURTHER PROCEEDINGS**

The plaintiff filed the present action on March 14, 2011 seeking review of the Commissioner's decision denying the plaintiff's application for a period of disability and disability insurance benefits under Title II and supplemental security income (SSI) under Title XVI of the Social Security Act. On March 14, 2011, the case was referred to United States Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1(b)(3). Thereafter, the plaintiff filed a motion for summary judgment to reverse the decision of the Commissioner and the defendant filed a motion for summary judgment to affirm the decision of the Commissioner. Presently before the Court is the report issued on March 5, 2012 by Magistrate Judge Michael J. Hluchaniuk pursuant to 28 U.S.C. § 636(b), recommending that the plaintiff's motion for summary judgment be granted, the defendant's motion for summary judgment be denied, the findings of the Commissioner be reversed, and the case be remanded to the agency for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation

within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's Report and Recommendation [dkt. #15] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt. #11] is **GRANTED** and the defendant's motion for summary judgment [dkt. #14] is **DENIED**.

It is further **ORDERED** that the findings of the Commissioner are **REVERSED** and the cases is **REMANDED** to the agency for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 23, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 23, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL